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Art Unit 3722

20 pages total

Contents:

13 page Appeal and
6 pages Appendix A

January 28, 2008

Application/Control Number: 09/856,228

Re: Appeal of Final Office Action

To: Ms. Jamila Williams, Examiner, Art Unit 3722

From: Craig L. Linden, Appellant in pro per

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C.L.L.*

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE JAN 29 2008

In re application of: Linden, Craig L.
Application No.: 09/858,228
Filed: May 16, 2001
Title: Method and Apparatus for Powered Interactive
Physical Displays
Group Art No.: 3722
Examiner: Jamila O. Williams
Date: January 26, 2008

MAIL STOP APPEAL BRIEF - PATENTS
Commissioner of Patents
Alexandria, VA 22313-1450

Sir:

APPEAL BRIEF

The Appellant, in pro per appeals to the Board of Patent Appeals and Interferences from the decision of the Final Office Action dated January 22, 2005, rejecting Claims 1-6, 9-14 and 17-25 as detailed below.

The Appellant's Notice of Appeal was accepted by the USPTO on June 26, 2007. The date for filing the Appeal Brief is August 26, 2007. The Appellant is concurrently filing a Petition for Extension of Time to extend the time for filing the Appeal Brief to January 26, 2008.

The Appellant respectfully submits this brief on appeal. Appellant requests a hearing. The statutory fee (\$260.00) for the Appeal Brief filing fee and five-month extension fee (\$1,115) are attached.

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Appellant sincerely requests the currently amended claims listed Appendix A be considered for purposes of this appeal. There is not new matter -- only references to the specification. Formerly, Appellant did not understand why his amended claims were rejected and not entered -- and now has a better understanding.

REAL PARTY IN INTEREST

This application is owned by Craig L. Linden, the Appellant.

RELATED APPEALS AND INTERFERENCES

Appellant is not aware of any appeals or interferences.

STATUS OF CLAIMS

As permission requested and for reasons stated above, Claims 1-6, and 11-14, and 17-25 are currently amended and remain pending in above-identified application.

Claims 1-6, 11-14, and 17-25, in their former form have been finally rejected under 35 USC 102(b) as being anticipated by U.S. Patent No. 5,746,602, Kikinis ("602 Kikinis"). Claims 23-25 in their former form have been rejected under 35 USC 112, second paragraph, as being indefinite in that they fail to point out what is included or excluded by the claim language. Claims 7-10, and 15-6 have been canceled from the application.

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Claims 1-6, 11-14 and 17-25 are presented appeal. Appellant requests the Board adjudge the claims separately. All currently amended Claims are shown in Appendix A. Appellant presents no new matter and respectfully requests entry and consideration in this appeal.

STATUS OF AMENDMENTS

After the final Office Action dated January 26, 2005, proposed Amendments dated March 27 & 30 and May 15, 2005, were submitted and refused entry. Appellant did not have a working understanding of what was required to prove novelty.

SUMMARY OF INVENTION

According to one embodiment, powered interactive physical displays, pictured as teddy bears in Figure 1 (12A and 14A) allow remotely-located persons to receive and give physical hugs. The father hugs his teddy bear (14A) and the information from the chest-located transducer in his bear (2) Figure 1, is communicated from (20b) via communication system (20a) to his remotely-located daughter and her teddy bear's input connection (20b). The daughter's teddy bear (12A) produces the dad's hug as dissimilar action via its powered arms. Dad (14) and daughter (12) are shown as together in Figure 1 to represent how close they feel but they are actually located in different states. The Detailed Description beginning on the Invention on page 11 of the specification give more details and examples of other embodiments in the specification.

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STATEMENT OF ISSUES

Whether Claims 1-6, 11-14, and 17-25 are unpatentable under 35 U.S.C. Section 102(b) compared to Kikinis '602 patent and whether Claims 23-25 are indefinite under Section 112.

GROUPING OF CLAIMS

The Appellant requests that currently amended Claims in Appendix A, be considered and adjudged separately.

ARGUMENTS

The rejection of Claims 1-6, 11-14 and 17-25 under 35 USC Section 102(b) as being anticipated by U.S. patent 5,746,602 to Kikinis is improper and should be withdrawn.

A. OVERVIEW

Claims 1-6, 11-14 and 17-25 under 35 USC Section 102(b) have been rejected in their former form as being anticipated by U.S. patent 5,746,602 to Kikinis.

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B. STANDARD

The Appellant now understands he must show evidence that his invention is novel.

C. THE KIKINIS '602 REFERENCE

Appellant will focus on the robotic, host computer, software elements and element-arrangements relate to the Kikinis electromechanical dolls (13). The robotic elements which seem separately structurally similar but as combined as taught by Kikinis do not represent an enabling disclosure.

Kikinis '602 is based upon one of the prior art's goals – i.e. the teaching of continually advancing robotic abilities by adding more and more artificial intelligence and associated mass memory storage. Kikinis '602 states an inventive step to lend the capabilities of powerful PCs (and associated structures) to his dolls by connecting the dolls to the family's PC or other computer(s). Thereby, Kikinis describes highly motion-capable dolls (and other entities) that could be marketed at a lower prices – because lower manufacture cost resulting from use of an already family-owned PC for the artificial intelligence.

The Kikinis '602 reference does not newly disclose phones disguised as dolls. Telephones, for one example, have been built into personal entities such as dolls and have

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been sold for decades -- such as the 1980's Disney trademarked Winne-the-Poo look-a-like phones.

These Office-cited elements are located within the Kikinis disclosure at (as reference by the Office):

- 1) an electrical power supply means (33);
- 2) a transducing means (column 5, lines 56-67 of the specification);
- 3) a physical display means (doll 13);
- 4) a remote control means (fig 2);
- 5) a transceiving communication means (PC 15).
- 6) a recording and playback means (column 8, lines 52-57 of the specification);

For reasons set forth below, the Appellant respectfully submits that the Patent Office has not established a prima facie case that Kikinis '602 anticipated Appellant's claims. The six above elements cited are arranged above are not enabling to output any non-scripted physical output.

One reason is that Kikinis tactile input sensor (column 5, lines 56-67 of the specification) data is communicated to the PC (15) via local communication link (41 in fig. 3) exclusively to recall pre-scripted movement routines. For instance the child can

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request a dance routine to be preformed by the doll. But there is no Kikinis disclosure about direct interactive touch between the doll and child.

The Kikinis discloses many elements for the system and the process steps are steps very numerous equating into significant time delays from physical input to scripted physical output. These delays multiply if two dolls are used to exchange pre-scripted motion routines.

When the child or adult may call for a software routine from the PC's CD disk, for instance, the child expects the doll to dance with the music, if so enabled.

The Office may have miss-read the following the element means as being relevant to Appellants claims:

a) additional or hybrid display means (column 3, lines 66-67 and column 4, lines 1-4 of the specification;). This is a reference to PC computer monitor, i.e., not bodily-contact display. Kikinis does not disclose a relevant additional or hybrid display means (column 3, lines 66-67 and column 4, lines 1-14 of the specification). Kikinis does disclose an option of using the PC video display interactively while the child plays with the doll. However, Appellant's Claims 21 and 22 are about the delivery of more than one type of energy to a person, for instance, electrical stimulation to the skin. Appellant could not find any related

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Kikinis disclosure – and Appellant believes, for instance -- that shocking a child, s
is disclosed included '602 Kikinis.

b) means to deliver electrical energy to a being (fig 2). This reference was not
found by Appellant anywhere in the Kikinis disclosure. Cited as evidence, the
Office states that Kikinis includes means to deliver electrical energy to a being
(fig 2) but Appellant cannot find any support in the Kikinis specification or
drawings for this statement – nor any inherent in the specification. The Kikinis
dolls' motors, etc. *are* electrically powered – allowing the dolls many different
electrical-mechanical movements. The dolls *do not* transfer any type of electrical
or any other types of direct contact physical stimulation to the user.

Cited Kikinis Power Supply Evidence Item No. 1: Every embodiment of Kikinis
requires a minimum of two energy source means – one onboard to power the Kikinis PC-
dependant entity and, another power energy source means to power the enabling separate
PC. Kikinis power supply 33 is limited to an electrical energy source (column 6, lines
34-43), no other types of energy are disclosed or inherent because Kikinis dolls physical
display movements are operated solely electrical-mechanically, and therefore the
reference could never be enabled with any other type of energy.

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Additionally, all possible embodiments of Kikinis entities – and therefore the Kikinis reference is not enabling without at least one separate PC which has to be purchased separately from the doll if not pre-owned by the child or family. The PC requirement is expressly written throughout the '602 Kikinis reference – the Kikinis reference is not enabling without a PC and without external pre-scripted control of the physical display.

Line 1 of column 5 of this Office cite states in part, "...Fig 1 is a self-contained mechanism..." Please note that fig 1 represents a Kikinis doll as connected a PC host computer. The Kikinis entities can be termed "self-contained" only in the manner that a computer mouse can be termed a self-contained peripheral device, i.e. the mouse is only enabled and only becomes useful only when connected to its host computer.

Cited Kikinis Evidence Item No. 4: A local or remote control means (fig 2). As best understood by Appellant – Kikinis powered physical display (doll 13) is *solely* enabled via remote control routines delivered by a PC via communication link (41).

Cited Kikinis Evidence Item No. 5: The Kikinis transceiving communication means (PC 15). This Kikinis PC communication disclosure is not enabling – nothing happens. Because there is no powered doll movement possible without this link to the separately required PC. Output from the Kikinis physical display (doll 13 – the Office

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cite of the Kikinis disclosure regarding powered interactive physical displays) is *wholly disabled* without this critical PC (and the many components therein).

Cited Kikinis Evidence Item No. 6: The Office cites Kikinis' recording and playback means (column 8, 52-57). Appellant did not find this cite. But there is reference regarding parents being able to record stories and messages on the PC for later playback from the PC-based memory to the doll's audio circuits. This Appeal is not about audio or audiovisual recording and playback.

D. APPELLANT'S CLAIMS 1-6, 11-14, and 17-25

The Final Office action cites above discusses the relevant Kikinis elements means which the Office states anticipates Appellant invention. However, Appellant operatively connects elements and/or processes (summary above and teddy bear fig. 8) producing substantially dissimilar powered interactive bodily-contact output display output as compared to input (MPEP 2173.05(g)).

For example a person makes tactile contact (input) with a directly but oppositely physically interactive "hubotic" display. Appellant's re-arrangement of prior art transducer-type input and powered output displays and other changes enable his invention. This dissimilar physical output compared to input information applies whether, just for example, one child hugs and receives a hug while using just one of

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Appellant's teddy bears or when people physically exchange human feelings via live remote hugging.

Oppositely -- the prior art of robotics relies on robots to reproduce inputted motion instruction data into nearly exactly the intended physical output movement -- or similar to the input data. Appellant's research of prior art has discovered no programming, input controls or arrangement of means or methods that enable a robot physical output movement to be purposely dissimilar or reversed compared to input data.

A prior art robot closes its hand or its mechanical-gripping mechanism to enable to the robot to keep hold of a glass of milk -- otherwise, should it perform a reverse movement action -- it will be spilled milk. The Kikinis '602 is not expressly enabling, nor inherently enabling to Appellant's novel but outwardly-similar looking hubotic teddy bears.

Appellant operatively connects elements and/or processes producing substantially faster powered interactive displays, i.e., output as compared to input (MPEP 2173.05(g)).

Appellants operatively connects elements and/or processes without undisclosed special Kikinis '602 (column 9, lines 46-56) environmental software (nor separately required performance routine software) and without a PC computer.

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Claims 23-25 were rejected as to 35 USC Sec. 112 as being indefinite by failing to point out what is included or excluded by the claim language. Appellant has amended these claims and respectfully submits them.

E: MISCELLANEOUS OBJECTIONS

The abstract (filed 6-13-02) for the disclosure was objected to in the Final Office Action of January 26, 2005, because it did not read clearly. Appellant corrected and submitted it on March 27, 2005 and respectfully requests it be entered.

The disclosure was objected to in the January 26, 2005 Final Office Action because of informalities. The examiner objected to the use on page 12, line 11 of the specification of the word "transceiver" to reference character 21, when the remainder of the specification denotes character 21 as "communications". The Appellant substituted the word "communications" for the word "transceiver" and has reviewed and corrected the specification for similar errors. Rather than reprint and fax it, the Appellant respectfully requests that the corrected specification dated March 26, 2005 be entered.

Claims 1-6, 9-14, 17-25 were objected to because of the claims ended with comma (,) whether than a period (.). The corrected and currently amended Claims are presented in Appendix A.

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The Appellant therefore respectfully submits Claims 1-6, 11-14, and 17-25 are in condition for allowance. Allowance of Claims 1-6, 11-14, and 17-25 is respectfully requested.

CONCLUSION

The Appellant has demonstrated that the present invention as currently amended is clearly distinguishable over Kikinis '602 as cited by the Patent Office. Therefore, the Appellant respectfully request the Board of Patent Appeals and Interferences to reverse the final rejection and issue a notice of allowance of all claims. The fees will be transmitted by credit card form.

Respectfully submitted,


Craig L. Linden

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Appendix A

Claims – January 26, 2008 with Appeal

Claims: *The following is a listing of all claims in the application with their status and the text of all non-cancelled claims.*

What is claimed is:

1. (CURRENTLY AMENDED) 1. A powered interactive bodily-contact output display with input, such display particularly for interaction with living beings comprising:

- (a) an energy source means, local or remote;
- (b) a transducing means, local or remote, for at least one input or at least one display output, selected from the group consisting of transducers, sensors, switches, actuators, generators, motors;
- © said energy source and transducing means operatively connected for producing a substantially dissimilar powered display output as compared to input.

2. (CURRENTLY AMENDED) A powered interactive bodily-contact output display as recited in claim 1 further comprising of operatively connected said energy source means, transducing means and display to substantially reduce time lag by reducing computer-based computational requirements.

3. (CURRENTLY AMENDED) A powered interactive bodily-contact output display apparatus as recited in claim 1, operable without specialized operating environment software load on a host computer.

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4. (CURRENTLY AMENDED) A powered interactive bodily-contact output display apparatus as recited in claim 1, operable without scripted movement control routines from a separate host computer.

5. (CURRENTLY AMENDED) A powered interactive bodily-contact output display apparatus as recited in claim 1, operable without a separate host computer.

6. (Amended) A powered interactive bodily-contact output display with input, such display particularly for interaction with living beings comprising:

(a) an energy source means, local or remote;

(b) a transducing means, local or remote, for at least one input or at least one display output, selected from the group consisting of transducers, sensors, switches, actuators, generators, motors;

© said energy source and transducing means operatively connected to substantially reduce time lag by substantially reducing reliance upon computer-based computational means.

7-8 (PREVIOUSLY CANCELED)

9-10 (CURRENTLY CANCELED)

11. (CURRENTLY AMENDED) A powered interactive bodily-contact output display apparatus as recited in claim 1, further comprised of a local or remote control means.

12. (CURRENTLY AMENDED) A powered interactive bodily-contact output display apparatus as recited in claim 6, further comprised of a local or remote control means.

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13. (CURRENTLY AMENDED) A powered interactive bodily-contact output display apparatus as recited in claim 1, further comprised of a display means to delivery electrical energy to a being.

14. (CURRENTLY AMENDED) A powered interactive bodily-contact output display apparatus as recited in claim 6, further comprised of a display means to delivery electrical energy to a being.

15-16 (PREVIOUSLY CANCELED)

17. (CURRENTLY AMENDED) A powered interactive bodily-contact output display apparatus as recited in claim 1, further comprised of a transceiving communication means.

18. (CURRENTLY AMENDED) A powered interactive bodily-contact output display apparatus as recited in claim 6, further comprised of a transceiving communication means.

19. (CURRENTLY AMENDED) A powered interactive bodily-contact output display apparatus as recited in claim 1, further comprised of a recording and playback means.

20. (CURRENTLY AMENDED) A powered interactive bodily-contact output display apparatus as recited in claim 6, further comprised of a recording and playback means.

21. (CURRENTLY AMENDED) A powered interactive bodily-contact output display apparatus as recited in claim 1, further comprised of additional or hybrid display means, for displaying other energy or other media.

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22. (CURRENTLY AMENDED) A powered interactive bodily-contact output display apparatus as recited in claim 6, further comprised of additional or hybrid display means, for displaying other energy or other media.

23. (CURRENTLY AMENDED) A method for transferring various forms of energy to or from remote persons, the method comprising of providing at least one person with an appropriate version of the powered interactive physical display apparatus claimed herein, connecting said apparatus to a remote controlling and transmitting device, via at least a one-way communication connection.

24. (CURRENTLY AMENDED) A method for providing centrally controlled energy display services to or from remote individuals or groups, the method comprising the following steps:

- a) providing one or more remote humans with a version of the powered interactive physical display apparatus equipped with communication means, as previously claimed;
- b) connecting at least one said display apparatus to a communication system for communication with a central control center;
- c) transmitting control information to or from said central control center to one or more said remote powered interactive physical display apparatus.

25. (CURRENTLY AMENDED) Method for integrating, in whole or in part, the functional means, or method of integrating physical display functions related to the various versions of the powered interactive physical display apparatus, as claimed and suggested herein, with distinct devices and/or distinct programming, the method comprising the following steps:

- a) selecting one or more integration candidate devices and products from the general categories:

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medical devices, therapy devices, rehabilitation devices, monitoring devices, chiropractic devices, massage devices, exercise devices, phones, pagers, Internet access devices, electronic stimulation devices, medicine and reward vaults, entertainment devices, thermal therapy devices, virtual reality systems, single and multi-player games, gambling devices, computer systems, exercise devices, sleep enhancing devices, magnetic, light, radio frequency and infrared.